

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)
)
 v) CAUSE NO.: 2:20-CR-127-PPS-JEM
)
 TYRONE E. JOHNSON,)
 Defendant.)

OPINION AND ORDER

This matter is before the Court on Defendant's Motion for an Order Requiring the Government to Give Notice of Its Intention to Use Other Crimes, Wrongs, or Acts Evidence [DE 20], filed January 13, 2020. The Government filed a response on January 25, 2021, and no reply has been filed.

Defendant Johnson requests that the Government provide notice of evidence of other crimes, wrongs, or acts of Defendant as well as evidence of specific instances of conduct of Defendant. Defendant also requests that with respect to each crime, wrong, act, or specific instance of conduct, the Government provide the following: the dates, time, places, and persons involved; the statements of each participant; the documents which contain evidence of the crimes, wrongs, or acts including when the documents were prepared and who prepared and had possession of the documents; copies of audio or video records; and the issues on which the Government believes the evidence is relevant. Finally, Defendant asks the Court to order the Government to provide the above material at least four weeks prior to trial. The Government requests that the instant Motion be denied and represents that if 404(b) evidence will be introduced, the Government will provide notice to Defendant at or before the final pretrial conference, which is currently scheduled two weeks before the trial.

With respect to Defendant's four-week notice request, Federal Rule of Evidence 404(b) provides no specific timing for disclosure. *United States v. Blount*, 502 F.3d 674, 677 (7th Cir. 2007). The Arraignment Order requires the parties to be prepared to discuss and consider any

anticipated legal or evidentiary problems, such as prior bad acts evidence under Federal Rule of Evidence 404(b), at the Final Pretrial Conference. Providing notice by the date of the Final Pretrial Conference is sufficient. *See id.* at 678; *United States v. Watson*, 409 F.3d 458, 465-66 (D.C. Cir. 2005) (forty-eight hours sufficient).

With respect to the specificity of the material Defendant requests, the Government objects that Defendant does not need the level of detail he requests in order to put him on notice of the “general nature” of the 404(b) evidence. The Government notes that even an indictment does not require the requested specificity of detail to effectively put a defendant on notice of the offenses charged. In the instant Motion, Defendant provides no authority or argument for why his requests are proper. The Court finds that Defendant is requesting more specificity than is warranted. *United States v. Alex*, 791 F. Supp. 723, 728 (N.D. Ill. 1992) (“By its terms, Rule 404(b) only requires the government to disclose the general nature of such evidence it intends to introduce at trial. [The defendant’s] demand for specific evidentiary detail including dates, times, places, and persons involved is wholly overbroad.”).

As to Defendant’s Rule 608(b) request, the Government correctly asserts that Rule 608(b) does not require pretrial disclosure of anything. Indeed, “defendants are not entitled access to any Rule 608(b) material which is not discoverable under Federal Rule of Criminal Procedure 16.” *United States v. Perez*, No. 00 CR 211, 2002 WL 1461504, at *12 (N.D. Ill. July 3, 2004); *see also United States v. Kirkwood*, No 06-30064, 2007 WL 605008, at *2 (C.D. Ill. Feb. 22, 2007). Therefore, the Court finds that Defendant’s 608(b) requests are not proper.

For the foregoing reasons, the Court **DENIES** Defendant’s Motion for an Order Requiring the Government to Give Notice of Its Intention to Use Other Crimes, Wrongs, or Acts Evidence [DE 20]. The Court **REMINDS** the Government of its obligation to disclose Rule 404(b) evidence in accordance with the Court’s Arraignment Order.

SO ORDERED this 8th day of February, 2021.

s/ John E. Martin

MAGISTRATE JUDGE JOHN E. MARTIN
UNITED STATES DISTRICT COURT

cc: All counsel of record.